

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

SAUNDRA FERRELL,

Plaintiff,

v.

**Civil Action No. 2:07cv55
(Judge Maxwell)**

DONNA ZICKEFOOSE, Warden,

Defendant.

**ORDER DENYING AS MOOT
MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS**

On July 16, 2007, the *pro se* Plaintiff filed this civil action with the Court. As well, the plaintiff filed an Application for Leave to Proceed Without Prepayment of Fees, a Consent to Collection of Fees from Trust Account, and Prisoner Trust Fund Account Statement, with supporting ledger sheets. On July 17, 2007, the Plaintiff's Motion was granted.

On January 17, 2008, the Plaintiff filed a Motion for Leave to Proceed *in forma pauperis*. To the extent that the Plaintiff is seeking relief from the order directing the Trustee Officer to withhold funds from her prisoner trust account until the \$350.00 filing fee is paid in full, said relief is not available. As noted in the Court's Order of July 17, 2008, 28 U.S.C. § 1915 requires prisoners to pay the full filing fee, \$350.00, when bringing a civil action in forma pauperis. 28 U.S.C. § 1915 (b)(1) (1996). If, however, insufficient funds exist in the prisoner's account to pay the full filing fee at the time of filing, the court must assess and, when funds exist, collect an initial filing fee of

twenty percent (20%) of the greater of the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account for the prior six month period. Id. Thereafter, the prisoner is required to make monthly payments of twenty percent (20%) of the preceding month's income. Id.

To the extent that the plaintiff is simply seeking leave to proceed without prepayment of fees, the motion is moot because she was granted that relief in the July 17, 2007, Order.

Accordingly, for the reasons state herein, the Plaintiff's Motion for Leave to Proceed *in forma pauperis* (Doc. 12) is **DENIED**.

IT IS SO ORDERED.

The Clerk is directed to transmit copies of this Order to Plaintiff.

DATED: January 22, 2008.

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE